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Case No. 3:20-CV-0284-MMD-CLB

ORDER GRANTING MOTION TO COMPEL

[ECF No. 26]

Defendants.

On March 4, 2022, Sheeks properly served London with 14 interrogatories and 17 requests for admission related to his claims. (ECF No. 26-2, 26-3.) London was required to respond to the interrogatories and requests for admission by no later than April 4, 2022. Fed. R. Civ. P. 33(b)(2) and 36(a)(3). The attorney for Defendants, Deputy Attorney General Ginn, set an appointment with London to “meet and confer” on April 14, 2022. (ECF No. 26-1.) London stated at the meet and confer that he had not completed the

1 discovery responses. (*Id.*) The result of the meet and confer was an agreement that
2 defense counsel would not file a motion to compel until April 19, 2022 to allow London an
3 opportunity to provide answers to the propounded discovery. (*Id.*) London did not serve
4 responses. (*Id.*)

5 Thereafter, on April 19, 2022, Defendants filed a motion to compel London to
6 answer the interrogatories and deem the requests for admission admitted. (ECF No. 26.)
7 No opposition to the motion was filed.

8 **II. LEGAL STANDARD**

9 “[B]road discretion is vested in the trial court to permit or deny discovery.” *Hallett*
10 *v. Morgan*, 296 F.3d 732, 751 (9th Cir. 2002). The “scope of discovery” encompasses
11 “any nonprivileged matter that is relevant to any party’s claim or defense and proportional
12 to the needs of the case[.]” Fed. R. Civ. P. 26(b)(1). In analyzing proportionality, the Court
13 must consider the need for the information sought based upon “the importance of the
14 issues at stake in the action, the amount in controversy, the parties’ relative access to
15 relevant information, the parties’ resources, the importance of discovery in resolving the
16 issues, and whether the burden or expense of the proposed discovery outweighs its likely
17 benefit.” Fed. R. Civ. P. 26(b)(1). Relevance is to be construed broadly to include “any
18 matter that bears on, or that reasonably could lead to other matter that could bear on” any
19 party’s claim or defense. *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978)
20 (citation omitted).

21 When a party fails to provide discovery and the parties’ attempts to resolve the
22 dispute without Court intervention are unsuccessful, the opposing party may seek an
23 order compelling that discovery. Fed. R. Civ. P. 37(a). However, the party moving for an
24 order to compel discovery bears the initial burden of informing the court: (1) which
25 discovery requests are the subject of the motion to compel; (2) which of the responses
26 are disputed; (3) why he believes the response is deficient; (4) why defendants’ objections
27 are not justified; and (5) why the information he seeks through discovery is relevant to the
28 prosecution of this action. *Harris v. Kernan*, No. 2:17-cv-0680-TLN-KJN-P, 2019 WL

1 4274010, at *1 (E.D. Cal. Sept. 10, 2019); *see also Ellis v. Cambra*, No. 1:02-cv-05646-
 2 AWI-SMS-PC, 2008 WL 860523, at *4 (E.D. Cal. 2008) (“Plaintiff must inform the court
 3 which discovery requests are the subject of his motion to compel, and, for each disputed
 4 response, inform the court why the information sought is relevant and why defendant’s
 5 objections are not justified.”).

6 Thereafter, the party seeking to avoid discovery bears the burden of showing why
 7 that discovery should not be permitted. *Blankenship v. Hearst Corp.*, 519 F.2d 418, 429
 8 (9th Cir. 1975). The party resisting discovery “‘must specifically detail the reasons why
 9 each request is irrelevant’ [or otherwise objectionable,] and may not rely on boilerplate,
 10 generalized, conclusory, or speculative arguments.” *F.T.C. v. AMG Servs., Inc.*, 291
 11 F.R.D. 544, 553 (D. Nev. 2013) (quoting *Painters Joint Comm. v. Emp. Painters Trust*
 12 *Health & Welfare Fund*, No. 2:10-cv-1385 JCM (PAL), 2011 WL 4573349, at *5 (D. Nev.
 13 2011). Arguments against discovery must be supported by specific examples and
 14 articulated reasoning. *U.S. E.E.O.C. v. Caesars Ent., Inc.*, 237 F.R.D. 428, 432 (D. Nev.
 15 2006).

16 **III. DISCUSSION**

17 **A. Meet and Confer and Compliance with LR 26-6(b)**

18 Discovery motions will not be considered unless the movant: (1) has made a good-
 19 faith effort to meet and confer as defined in LR IA 1-3(f) before filing the motion; and (2)
 20 includes a declaration setting forth the details and results of the meet-and confer
 21 conference about each disputed discovery request. LR 26-6(b), (c). Defendants
 22 conducted a meet and confer with London on April 14, 2022 with respect to his lack of
 23 response to the discovery requests. (ECF No. 26-1.) Defense counsel included a
 24 declaration in accordance with LR 26-6(c) which set forth the agreement that counsel
 25 would wait until April 19, 2022 to file a motion to compel to allow London to answer the
 26 discovery requests. (*Id.*)

27 **B. Interrogatories Propounded by Defendant Sheeks**

28 London was properly served with Sheek’s interrogatories on March 4, 2022. (ECF

1 No. 26-2.) Pursuant the Federal Rules of Civil Procedure, a party that receives properly
2 served interrogatories must answer the interrogatories to the extent they are not
3 objectionable “separately and fulling in writing” within “30 days.” Fed. R. Civ. P. 33(b)(3),
4 33(b)(2). Moreover, if the interrogatory is objectionable, the receiving party must state
5 their objection with specificity in their response. Fed. R. Civ. P. 33(b)(4). London’s failure
6 to oppose the motion to compel constitutes a consent to the granting of the motion. LR 7-
7 2(d). As London was properly served with the interrogatories and he failed to oppose the
8 motion in any way, Defendants motion to compel is granted and London is explicitly
9 ordered to respond to the interrogatories propounded by Sheeks within 15 days from the
10 date of this order.

11 Sheeks is cautioned that if he fails to fully and completely answer the
12 interrogatories propounded by Sheeks as required by the rules, this Court may impose
13 sanctions up to and including dismissing this action, in whole or, in part. Fed. R. Civ. P.
14 37(b)(2)(v).

15 **C. Requests for Admission Propounded by Sheeks**

16 London was properly served with Sheek’s requests for admission on March 4,
17 2022. (ECF No. 26-3.) Pursuant the Federal Rules of Civil Procedure, “a matter is
18 admitted unless, within 30 days after being served, the party to whom the request is
19 directed served on the requesting party a written answer or objection addressed to the
20 matter and signed by the party or its attorney.” Fed. R. Civ. P. 36(a)(3). At the meet and
21 confer, London was provided additional time to provide answers to the requests for
22 admission and failed to do so. (ECF No. 26-1.) Moreover, London failed to file any
23 opposition to the current motion. London’s failure to oppose the motion to compel
24 constitutes a consent to the granting of the motion. LR 7-2(d). Therefore, Defendants
25 motion to compel is granted and Sheeks propounded requests for admission are deemed
26 admitted.

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IT IS THEREFORE ORDERED that Defendants' motion to compel is **GRANTED**. (ECF No. 26.) London shall answer the 14 interrogatories propounded by Sheeks, (ECF No. 26 at 2), on or before May 27, 2022. Sheeks's 17 requests for admission are deemed admitted. (ECF No. 26-3.)


UNITED STATES MAGISTRATE JUDGE